



**DEPARTMENT OF INSURANCE, FINANCIAL
INSTITUTIONS AND PROFESSIONAL REGISTRATION**

P.O. Box 690, Jefferson City, Mo. 65102-0690

IN THE MATTER OF:

TITLE ONE, LLC,

Respondent.

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Case No. 061128342C

CONSENT ORDER

NOW, W. DALE FINKE, Director of the Department of Insurance, Financial Institutions and Professional Registration, on the consent of Title One, LLC and the Consumer Affairs Division, issues the following findings of fact, conclusions of law, and order:

PARTIES

1. W. Dale Finke is the Director of the Department of Insurance, Financial Institutions, and Professional Registration (hereinafter, "the Director"). The Director has the duty to administer Chapters 374, 375, and 381, RSMo, which includes the supervision, regulation, and discipline of title insurers and their agents licensed to operate and conduct business in the state of Missouri.

2. The Consumer Affairs Division of the Department of Insurance, Financial Institutions, and Professional Registration ("Consumer Affairs Division") has the duty of

conducting investigations into the unfair or unlawful acts of insurance companies and agents under the insurance laws of this state and has been authorized by the Director to initiate this action before the Director to enforce the insurance laws of this state.

3. Title One, LLC (hereinafter, "Title One") is a title agency licensed to conduct title insurance business in Missouri (License Number AG8015998).

STIPULATIONS

4. On or about November 29, 2006, Jeremy J. Ray, counsel on behalf of the Consumer Affairs Division of the Department of Insurance, Financial Institutions and Professional Registration filed a Statement of Charges and a proposed Order to Cease and Desist with the Director, naming Title One as the respondent therein.

5. In Count I of the Statement of Charges, the Consumer Affairs Division alleged that Title One violated § 381.181, RSMo (1994) by using and collecting premiums at rates that had not been filed with the Director.

6. Section 381.181.1, RSMo (1994) provides, in part:

Every title insurer shall file with the director its premium schedules it proposes to use in any county of this state.

7. Section 381.181.2, RSMo (1994) provides, in part:

No title insurer or title agent or agency may use or collect any premium after September 28, 1987, except in accordance with the premium schedules filed with the director as required by subsections 1 and 2 of this section.

8. Section 381.031(14), RSMo (1994) defines "Premium" as "risk rates charged to the insured."

9. Pursuant to 20 CSR 500-7.100(1)(D), "risk rate" means "the total consideration paid by or on behalf of the insured for a title insurance policy." It further states that "[r]isk rate

shall include the title insurance agent's commission but shall not include any charge as defined in subsection (1)(A)."

10. Pursuant to 20 CSR 500-7.100(1)(A), "charge" means:

[A]ny fee charged to the insured, or paid for the benefit of the insured for the performance of title-related services other than the risk rate charged for title insurance. This charge shall include, but is not limited to, fees for abstracts, title search and examination, handling of escrows, settlements or closings

11. The facts alleged by the Consumer Affairs Division in Count I of the Statement of Charges are as follows:

- i. Commonwealth Land Title Insurance Company ("Commonwealth") underwrites title insurance for Title One.
- ii. Commonwealth filed premium rates with the Director as required by § 381.181.1, RSMo (1994). Such rates were deemed effective for use by Commonwealth and any of its licensed agents at all times relevant hereto.
- iii. Title One, as an agent for Commonwealth, uses and collects a single amount for title insurance premium, in addition to other charges, including a settlement or closing fee.
- iv. The all-inclusive amount used or collected for title insurance premium by Title One is not based on the premium rates filed with the Director.

12. In Count II of the Statement of Charges, the Consumer Affairs Division alleged that Title One violated § 375.934, RSMo (2000) by engaging in an unfair trade practice defined by § 375.936(4), RSMo (2000).

13. Section 375.934, RSMo (2000) provides:

It is an unfair trade practice for any insurer to commit any practice defined in section 375.936 if:

(1) It is committed in conscious disregard of sections 375.930 to 375.948 or of any rules promulgated under sections 375.930 to 375.948; or

(2) It has been committed with such frequency to indicate a general business practice to engage in that type of conduct.

14. Section 375.936, RSMo (2000), provides:

Any of the following practices, if committed in violation of section 375.934, are hereby defined as unfair trade practices in the business of insurance: . . .

(4) "False information and advertising generally", making . . . or causing, directly or indirectly, to be made, . . . in any other way, . . . [a] statement containing any assertion, representation or statement with respect to the business of insurance, . . . which is untrue, deceptive or misleading;

15. The facts alleged by the Consumer Affairs Division in Count II of the Statement of Charges are as follows:

- i. Title One made untrue, deceptive, and misleading statements in connection with the business of insurance by completing and issuing various forms to purchasers of title insurance, in which it listed as the cost of title insurance the premium rate calculated based on its pricing sheet, rather than stating the premium rates as filed and approved for use by Commonwealth and its authorized agents.
- ii. Such statements of cost were (i) untrue, as the true cost of each such policy was governed by the premium rates filed and approved by the Director; and (ii) deceptive or misleading, insofar as the costs did not reveal what the premium rates were for the policy or policies sold in each transaction, thereby preventing purchasers of title insurance from knowing

what portion of the costs were governed by the premium rates filed and approved by the Director, and which others were negotiable.

iii. Title One committed the aforesaid violation(s) in conscious disregard of §§ 375.934 and 375.936, RSMo (2000).

iv. Title One committed the aforesaid violations with such frequency as to indicate a general business practice to engage in that type of conduct.

16. In Count III of the Statement of Charges, the Consumer Affairs Division alleged that Title One violated § 375.934, RSMo (2000) by engaging in an unfair trade practice defined by § 375.936(6), RSMo (2000).

17. Section 375.934, RSMo (2000) provides:

It is an unfair trade practice for any insurer to commit any practice defined in section 375.936 if:

(1) It is committed in conscious disregard of sections 375.930 to 375.948 or of any rules promulgated under sections 375.930 to 375.948; or

(2) It has been committed with such frequency to indicate a general business practice to engage in that type of conduct.

18. Section 375.936, RSMo (2000), provides:

Any of the following practices, if committed in violation of section 375.934, are hereby defined as unfair trade practices in the business of insurance: . . .

(6) "Misrepresentations and false advertising of insurance policies", making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustrations, circular or statement, sales presentation, omission, or comparison which:

(a) Misrepresents the benefits, advantages, conditions, or terms of any policy; . . .

19. The facts alleged by the Consumer Affairs Division in Count III of the Statement of Charges are as follows:

- i. During the course of every closing performed by Title One involving a property for which Title One was to issue a title insurance policy, Title One made and issued various documents to the parties of each transaction, including settlement statements, which contained statements that misrepresented the premium rates for title insurance policies.
- ii. The premium rate of a title insurance policy is a term and/or condition of each such policy contract.
- iii. The statements of premium rates for each policy were misrepresentations insofar as they did not accurately reflect the premium rate of each policy, as regulated by the premium rates filed for use by Commonwealth and its agents.
- iv. Title One made the aforementioned statements in conscious disregard of §§ 375.934 and 375.936, RSMo (2000).
- v. Title One made the foregoing statements with such frequency as to indicate a general business practice to engage in that type of conduct.

20. In Count IV of the Statement of Charges, the Consumer Affairs Division alleged that Title One violated § 375.144, RSMo (Cum. Supp. 2005) by misrepresenting, concealing, or suppressing from purchasers at the time of negotiation and sale of insurance material facts concerning the cost of title insurance.

21. Section 375.144, RSMo (Cum. Supp. 2005) provides, in part:

It is unlawful for any person, in connection with the offer, sale, solicitation or negotiation of insurance, directly or indirectly, to:

(2) As to any material fact, make or use any misrepresentation, concealment or suppression;

22. The Consumer Affairs Division alleged in Count IV of the Statement of Charges that Title One misrepresented, concealed, or suppressed the following information in violation of § 375.144, RSMo (Cum. Supp. 2005):

- i. Information regarding the actual premium rates of title insurance policies, which must be calculated in accordance with the premium rates filed with the Director; and
- ii. Information regarding charges for services related to the issuance of title insurance policies, including search and examination expenses, clearing title defects, and other charges that are not included in the filed premium rate and may be discounted or negotiated without limitation.

23. On or about November 29, 2006, the Director issued a Show Cause Order directing Title One to show cause why a Cease and Desist Order should not be issued.

24. On or about December 4, 2006, Title One requested a hearing on the matter.

25. Title One and the Consumer Affairs Division desire to settle the allegations and matters raised in the Statement of Charges.

26. Title One and the Consumer Affairs Division consent to the issuance of this Consent Order.

27. Title One admits to the allegations of the Consumer Affairs Division in paragraphs 11, 15, 19 and 22.

28. Title One waives the right to a hearing to contest any provision of this order and has stipulated and agreed to the issuance of this order without further proceedings in this matter, agreeing to be fully bound by the terms and conditions specified herein.

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29. Title One has stipulated and agreed to waive any rights that it may have to seek judicial review or other challenge or contest the terms and conditions of this order and forever releases and holds harmless the Consumer Affairs Division, the Department, the Director, and their agents from any and all liability and claims arising out of, pertaining to or relating to this matter.

CONCLUSIONS OF LAW

30. The Consumer Affairs Division is authorized to settle this matter and the Director is authorized to issue this Consent Order in the public interest pursuant to § 374.046 (Cum. Supp. 2006) and § 374.280, RSMo (2000).

PROHIBITED CONDUCT AND AFFIRMATIVE DUTIES

IT IS NOW, THEREFORE, ORDERED that Title One, LLC is prohibited from violating §381.181.2, RSMo (1994) by using or collecting as an agent on behalf of any title insurance company any rate that has not been filed with the Director, such as an all-inclusive title insurance rate that includes charges for title services.

IT IS NOW, FURTHER ORDERED that Title One, LLC is prohibited from violating §§375.934, RSMo (2000) and 375.144, RSMo (Cum. Supp. 2005) by:

- A. concealing or failing to disclose to consumers that the all-inclusive title insurance price includes both non-negotiable title insurance premium and other title service charges that may be negotiable; and
- B. using the term "rate", "card rate", "premium" or other terms of similar import to describe an all-inclusive title insurance price, which includes both non-negotiable title insurance premium and other title service charges that may be negotiable.

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IT IS NOW, FURTHER ORDERED that Title One, LLC shall fully disclose title insurance rate and title service charges to its customers prior to closing and on real-estate closing documents.

IT IS NOW, FURTHER ORDERED that Title One, LLC shall renegotiate no later than June 30, 2007 all current underwriting agreements so that any commission paid to or retained by Title One, LLC is a percentage of the premium based on rates filed with the Director in accordance with § 381.181, RSMo (1994).

IT IS NOW, FURTHER ORDERED that Title One, LLC, in all new underwriting agreements, shall base any commission paid to or retained by Title One, LLC on a percentage of the premium based on rates filed with the Director in accordance with §381.181, RSMo (1994).

MONETARY RELIEF

IT IS NOW, FURTHER, ORDERED that Title One, LLC shall pay the amount of Nine Thousand Dollars (\$9,000.00), as authorized by §374.046, RSMo (Cum. Supp. 2006), payable to the Insurance Dedicated Fund so that funds may be available for the purpose of providing consumer education.

IT IS NOW, FURTHER, ORDERED that Title One, LLC shall pay the amount of One Thousand Dollars (\$1,000.00) as authorized by §374.046, RSMo (Cum. Supp. 2006) payable to the Insurance Dedicated Fund as reimbursement of costs associated with the investigation of this matter.

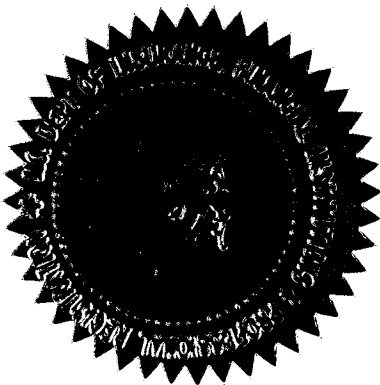
IT IS NOW, FURTHER, ORDERED that such payments shall be immediately due. If Title One, LLC fails to make the payments under the terms of this provision, the Department may pursue additional legal remedies to enforce this order and collect the unpaid balance of this order. All payments ordered above shall be delivered to the Department of Insurance, Financial

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Institutions and Professional Registration, Attention Jeremy J. Ray, Senior Enforcement Counsel,
P.O. Box 690, Jefferson City, Missouri 65102. Any correspondence and/ or checks shall
reference the above cited case number.

SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS 19th DAY OF
December, 2006.



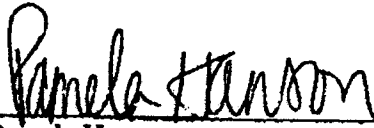
W. DALE FINKE, Director
Department of Insurance, Financial Institutions &
Professional Registration

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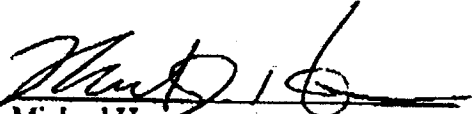
CONSENT AND WAIVER OF HEARING

The undersigned persons understand and acknowledge that Title One has the right to a hearing, but that Title One, LLC has waived the hearing and consented to the issuance of this Agreement.



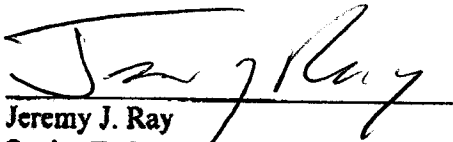
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12-15-06
Date



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12.18.06
Date